



Federal Communications Commission  
Washington, D.C. 20554

DEC 8 1997

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DOCKET FILE COPY ORIGINAL

The Honorable Ike Skelton  
U. S. House of Representatives  
514-B NW 7 Highway  
Blue Springs, Missouri 64014

RECEIVED

DEC - 9 1997

Dear Congressman Skelton:

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Thank you for your letter dated October 30, 1997, on behalf of your constituents in Nevada, Missouri, who are concerned about the placement and construction of facilities for the provision of personal wireless services and radio and television broadcast services in their community. Your constituents' letter refers to three proceedings that are pending before the Commission. In MM Docket No. 97-182, the Commission has sought comments on a Petition for Further Notice of Proposed Rule Making filed by the National Association for Broadcasters and the Association for Maximum Service Television. In this proceeding, the petitioners ask the Commission to adopt a rule limiting the exercise of State and local zoning authority with respect to broadcast transmission facilities in order to facilitate the rapid build-out of digital television facilities, as required by the Commission's rules to fulfill Congress' mandate. In WT Docket No. 97-192, the Commission has sought comment on proposed procedures for reviewing requests for relief from State and local regulations that are alleged to impermissibly regulate the siting of personal wireless service facilities based on the environmental effects of radio frequency emissions, and related matters. Finally, in DA 96-2140 and FCC 97-264, the Commission twice sought comments on a Petition for Declaratory Ruling filed by the Cellular Telecommunications Industry Association seeking relief from certain State and local moratoria that have been imposed on the siting of commercial mobile radio service facilities.

Because all of these proceedings are still pending, we cannot comment on the merits of the issues at this time. However, I can assure you that the Commission is committed to providing a full opportunity for all interested parties to participate. The Commission has formally sought public comment in all three proceedings and, as a result, has received numerous comments from State and local governments, service providers, and the public at large. Your letter, as well as this response, will be placed in the record of all three proceedings and will be given full consideration.

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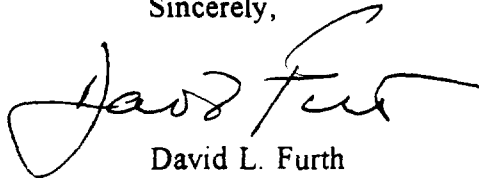
The Honorable Ike Skelton

2.

Further information regarding the Commission's policies toward personal wireless service facilities siting, including many of the comments in the two proceedings involving personal wireless service facilities, is available on the Commission's internet site at <http://www.fcc.gov/wtb/siting>.

Thank you for your inquiry.

Sincerely,

A handwritten signature in black ink, appearing to read "David L. Furth". The signature is fluid and cursive, with a large initial "D" and a long horizontal stroke at the end.

David L. Furth  
Chief, Commercial Wireless Division  
Wireless Telecommunications Bureau

IKE SKELTON  
4TH DISTRICT, MISSOURI  
2227 FAZAKER HOUSE DRIVE, BLUE SPRINGS, MO  
WASHINGTON, DC 20515-2504  
TELEPHONE: (202) 725-2878

Congress of the United States  
House of Representatives  
Washington, DC 20515-2504

514-B N.W. SEVEN HIGHWAY  
BLUE SPRINGS, MO 64014  
(816) 228-4242

1818 INDUSTRIAL DRIVE  
JEFFERSON CITY, MO 65109  
(314) 635-3489

219 NORTH ADAMS STREET  
LEBANON, MO 65536  
(417) 532-7964

318 SOUTH 1st AVENUE  
FEDERAL BUILDING  
SEDAIA, MO 65301  
(816) 826-2876

6780  
due 12/4/97  
BF's signature

October 30, 1997

RE: Raymore/Nevada

Mr. Daniel B. Phythyon  
Director  
Federal Communications Commission  
Office of Legislative Affairs  
0700, 1919 M St., NW, Room 808  
Washington, DC 20554

WTP  
Cellular  
Tower  
12/9/97

The attached communication is submitted for  
your consideration, and to ask that the request  
made therein be complied with, if possible.

If you will advise me of your action in this matter  
and have the letter returned to me with your  
reply, I will appreciate it.

Please address reply:

Congressman Ike Skelton, 4th District  
514-B NW 7 Hwy.  
Blue Springs, MO 64014  
(816) 228-4242



## City of Raymore

104 N. Madison Street

P.O. Box 440

Raymore, Missouri 64083

(816)331-0488 / FAX (816)331-8724

OCT 30 1997

October 27, 1997

Ike Skelton  
Kansas City Office  
514-B NW 7 Highway  
Blue Springs, MO 64014

Dear Representative Skelton:

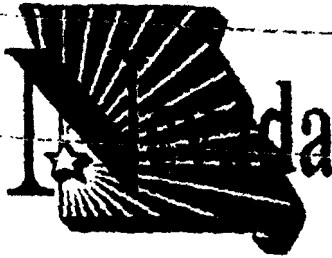
We are writing you about the Federal Communications Commission and its attempts to preempt local zoning of cellular, radio and TV towers by making the FCC the "Federal Zoning Commission" for all cellular telephone and broadcast towers. Both Congress and the courts have long recognized that zoning is a peculiarly local function. Please immediately contact the FCC and tell it to stop these efforts which violate the intent of Congress, the Constitution and principles of Federalism.

In the 1996 Telecommunications Act, Congress expressly reaffirmed local zoning authority over cellular towers. It told the FCC to stop all rulemakings where the FCC was attempting to become a Federal Zoning Commission for such towers. Despite this instruction from Congress, the FCC is now attempting to preempt local zoning authority in different rulemakings.

Cellular Towers - Radiation: Congress expressly preserved local zoning authority over cellular towers in the 1996 Telecommunications Act with the sole exception that municipalities cannot regulate the radiation from cellular antennas if it is within limits set by the FCC. The FCC is attempting to have the "exception swallow the rule" by using the limited authority Congress gave it over cellular tower radiation to review and reverse any cellular zoning decision in the U.S. which it finds is "tainted" by radiation concerns, even if the decision is otherwise perfectly permissible. In fact, the FCC is saying that it can "second guess" what the true reasons for a municipality's decisions are, need not be bound by the stated reasons given by a municipality and doesn't even need to wait until a local planning decision is final before the FCC acts.

Our citizens will probably be concerned about the radiation from cellular towers. We cannot prevent them from mentioning their concerns in a public hearing. In its rulemaking the FCC is saying that if any citizen raises this issue that this is sufficient basis for a cellular zoning decision to immediately be taken over by the FCC and potentially reversed, even if the municipality expressly says it is not considering such statements and the decision is completely valid on other grounds, such as the impact of the tower on property values or aesthetics.

OCT 29 1997

CITY  
OF

110 SOUTH ASH • NEVADA, MISSOURI 64772

PHONE 417-448-2700 • FAX 417-448-2707

October 24, 1997

Honorable Ike Skelton  
Representative, U.S. District 4  
2227 Rayburn Building  
Washington, D.C. 20515

Dear Ike:

We want to ask your support in curbing actions of the Federal Communications Commission to preempt local zoning of radio, cellular TV towers; action taken by the FCC in direct contradiction of the Telecommunications Act of 1996.

First, the FCC is using the limited authority they were given by Congress to regulate radiation from cellular towers as a means of reversing many other types of local decisions when they find that such decisions have been "tainted" by radiation concerns. This allows them to "second-guess" what the true reasons for a municipality's decisions were, and to disallow them. Secondly, the FCC is proposing a ban on moratoria which some cities impose on cellular towers while they revise their ordinances to accommodate the increasing number of towers. We believe this violates the Constitution and the directive from Congress preventing the FCC from becoming a Federal Zoning Commission. Finally, we object to the FCC's proposed rule that sets an artificial limit of 21 to 45 days for cities to act on any permit. Any permit request is automatically deemed granted if the city doesn't act within this time frame, even where the application is incomplete or where it clearly violates local law.

We hope you will oppose these actions. Some suggested means are: 1) contacting the FCC Chairman and FCC Commissioners and asking them to stop this intrusion on local zoning authority in cases WT 97-197, MM Docket 97-182 and DA 96-2140, 2) joining in the "Dear Colleague Letter" currently being prepared to go to the FCC by some members of Congress, and 3) opposing any effort to grant the power of the FCC to act as a Federal Zoning Commission.

We appreciate your support for local governments and hope you can help us with this.

Sincerely,

  
Lynn Ewing, III  
Mayor

Cellular Towers - Moratoria: Relatedly the FCC is proposing a rule banning the moratoria that some municipalities impose on cellular towers while they revise their zoning ordinances to accommodate the increase in the numbers of towers. Again, this violates the Constitution and the directive from Congress preventing the FCC from becoming a Federal Zoning Commission.

In conclusion, the FCC's attempts to preempt local zoning of cellular, radio and televisions towers are inappropriate. Zoning is a matter of local concern. The FCC has no zoning knowledge or expertise and is not accessible to most citizens. Most importantly, the individuals in the FCC that are involved in the rulemaking process have probably never visited Raymore, Missouri, yet they are making decisions of local concern.

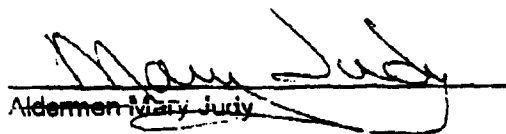
We, the governing officials of Raymore, Missouri ask you (our elected representative) to demand that the FCC terminate all actions which preempt local zoning ordinances. Thank you in advance for your help!

Sincerely,

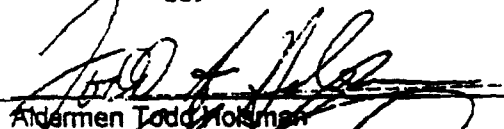
  
Mayor Frank Stathopoulos

  
Aldermen Wilber Stone

Aldermen C R Cox

  
Aldermen Mary Judy

Aldermen Peggy Poe

  
Aldermen Todd Holman

  
Aldermen Kurt Lauvstad